

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WISCONSIN**

CODY FLACK,  
SARA ANN MAKENZIE,  
MARIE KELLY, and  
COURTNEY SHERWIN,  
*individually and on behalf of all others  
similarly situated,*

Plaintiffs,

v.

WISCONSIN DEPARTMENT OF  
HEALTH SERVICES, *et al.*,

Defendants.

Case No. 3:18-cv-00309-wmc  
Judge William Conley

**SECOND DECLARATION OF ORLY T. MAY, ESQ.**

I, Orly T. May, declare as follows:

1. I am an attorney for the Plaintiffs in the above-captioned case. I previously submitted a declaration [ECF No. 21] in connection with Plaintiffs' Motion for Preliminary Injunction. I submit this second declaration in connection with Plaintiffs' Motion for Summary Judgment.

2. Exhibit 1 to this Declaration is a true and correct copy of Defendants' Response to Plaintiffs' First Set of Interrogatories.

3. Exhibit 2 to this Declaration is a true and correct copy of Movement Advancement Project, *Equality Maps: Healthcare Law and Policies, Medicaid*, available at [http://www.lgbtmap.org/equality\\_maps/profile\\_state/WI](http://www.lgbtmap.org/equality_maps/profile_state/WI) (last accessed and printed on Apr. 22, 2019).

4. Exhibit 3 to this Declaration is a true and correct copy of Movement Advancement Project, *Wisconsin Equality Profile*, available at [http://www.lgbtmap.org/equality\\_maps/profile\\_state/WI](http://www.lgbtmap.org/equality_maps/profile_state/WI) (last accessed and printed on Apr. 23, 2019).

5. Exhibit 4 to this Declaration is a true and correct copy of Nat'l Ctr. for Transgender Equality, *The Report of the 2015 U.S. Transgender Survey* (2016, updated 2017) available at <https://www.transequality.org/sites/default/files/docs/USTS-Full-Report-FINAL.PDF> (last accessed and printed on Apr. 23, 2019).

6. Exhibit 5 to this Declaration is a true and correct copy of Maggie Astor, *Danica Roem Wins Virginia Race, Breaking a Barrier for Transgender People*, N.Y. Times, available at <https://www.nytimes.com/2017/11/07/us/danica-roem-virginia-transgender.html> (Nov. 7, 2017).

7. Exhibit 6 to this Declaration is a true and correct copy of Antonio Olivio, *Danica Roem of Virginia to be first openly transgender person elected, seated in a U.S. statehouse*, Wash. Post, available at <http://wapo.st/2zEX1aD> (Nov. 8, 2017).

8. Exhibit 7 to this Declaration is a true and correct copy of *Over 150 LGBTQ candidates claim victory in midterm elections*, NBC News, available at <https://www.nbcnews.com/feature/nbc-out/over-100-lgbtq-candidates-claim-victory-midterm-elections-n933646> (Nov. 7, 2018).

9. Exhibit 8 to this Declaration is a true and correct copy of the World Prof'l Ass'n of Transgender Health, *Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People* (7th Version 2011) (WPATH Standards of Care).

10. Exhibit 9 to this Declaration is a true and correct copy of Wylie C. Hembree, *et al.*, "Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons: An Endocrine

Society Clinical Practice Guideline,” J. Clinical Endocrinology & Metabolism (2017) (Endocrine Society Guidelines).

11. Exhibit 10 to this Declaration is a true and correct copy of an email from K. Plunkett to J. Sager & L. Wiggins on Mar. 11, 2019, attaching a spreadsheet entitled Gender Reassignment Procedure Code List (DHS Gender Reassignment Procedure Code List) (Bates range DHS000393-94).

12. Exhibit 11 to this Declaration is a true and correct copy of an email sent from J. Sager to R. Currans-Henry on Nov. 14, 2016 (DHS001008-1009).

13. Exhibit 12 to this Declaration is a true and correct copy of an email sent from J. Sager to L. Wiggins on Jan. 4, 2016 (DHS001099-1100).

14. Exhibit 13 to this Declaration is a true and correct copy of Wis. Dep’t of Health Servs., Biennial Rule Review Document (DHS00020).

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and information.

Executed this 23rd day of April, 2019.

  
Orly T. May